

ORDINANCE NO. 160, 2013  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING CHAPTER 10 OF THE CODE OF THE CITY OF FORT COLLINS  
REGARDING FLOOD HAZARD AREAS TO CONFORM TO  
COLORADO WATER CONSERVATION BOARD  
FLOODPLAIN REGULATIONS

WHEREAS, requirements and restrictions specific to development and related activities in the flood hazard areas in the city are set forth in Article II of Chapter 10 of the Code of the City of Fort Collins (the “City Code”); and

WHEREAS, the City’s regulation of flood hazard areas is subject to the requirements of the Federal Emergency Management Agency (“FEMA”) and the Colorado Water Conservation Board (“CWCB”), which each promulgate and enforce their own related regulations; and

WHEREAS, in January 2011, the CWCB promulgated new minimum statewide floodplain regulations (the “CWCB Regulations”), which require that all local communities adopt regulations at least as strict as the CWCB Regulations by January 2014; and

WHEREAS, although many of the requirements included in the CWCB Regulations are already included in the City Code, some revisions to the City Code are needed in order to fully comply with the CWCB Regulations; and

WHEREAS, the City Council considered the proposed revisions to the City Code to conform to the CWCB Regulations, together with other proposed City Code changes related to regulation of flood hazard areas, at its work session on September 24, 2013; and

WHEREAS, the City Council believes it would be in the best interests of the City to approve the revisions set forth herein, in order to conform to the requirements of CWCB and the CWCB Regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That Section 10-16 of the Code of the City of Fort Collins is hereby amended by adding the following new definitions and amending existing definitions, to read in their entirety as follows:

...

*At-risk population facilities* shall mean facilities that house or provide shelter or services to children, the infirm, or other persons requiring special assistance or care or life support. *At-risk population facilities* shall include, but not be limited to: hospitals; non-ambulatory surgery centers; elder care, nursing homes and assisted living facilities; congregated care facilities, residential care facilities, and group homes; housing intended for occupants who may not be sufficiently mobile to avoid death or injury during a flood without special assistance; day care

and child care facilities; public and private schools for all grade levels below high-school graduation; and before-school and after-school care facilities and summer day-camp facilities.

*Colorado Floodplain Regulations* shall mean the Rules and Regulations for Regulatory Floodplains in Colorado, issued November 17, 2012, by the Colorado Department of Natural Resources, Colorado Water Conservation Board, 2 Code of Colorado Regulations 408-1 (2010).

*Conditional letter of map revision (CLOMR)* shall mean a letter from FEMA officially commenting on, **but not revising, the effective Flood Insurance Rate Map, for** a proposed project that would, upon completion, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in a revision to the effective Flood Insurance Rate Map to show changes in zones, delineations and flood elevations of floodplains and floodways.

*Critical facilities* shall mean structures or facilities, but not the land on which they are situated, that if flooded may result in significant hazards to public health and safety or interruption of essential services and operations for the community at any time before, during or after a flood. *Critical facilities* shall include essential services facilities, hazardous materials facilities, at-risk population facilities, and government services facilities. ~~that produce, use or store hazardous, flammable, explosive, toxic and/or water reactive materials, liquids, gases and solids as such are defined in the Uniform Fire Code as adopted in § 9-1 and as amended in § 9-2, but not including retail structures and facilities that only stock and store products containing such substances in factory-sealed containers; hospitals, nursing homes, group homes, residential care facilities, congregate care facilities and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood; schools; daycare facilities; cemeteries; police stations, fire stations, vehicle and equipment storage facilities and emergency operations centers that are needed for flood response activities before, during and after a flood; and public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during and after a flood.~~

...

*Essential services facilities* shall mean facilities for the provision of services needed before, during and after a flood event in order to protect public health and safety. *Essential services facilities* shall include, but not be limited to: public safety facilities such as police stations, fire and rescue stations, emergency operations centers, storage facilities for emergency vehicles and equipment; emergency medical facilities such as hospitals, ambulance service centers, urgent care centers and non-ambulatory surgical centers; designated emergency shelters; communications facilities such as main hubs and control centers for telephone service, cable broadcasting, satellite dish broadcasting, cellular systems, television, radio and other emergency warning systems (excluding towers, poles, lines, cables and conduits); public and private utility plant facilities for generation, treatment and distribution, such as transmission and distribution hubs and control centers, water treatment plants, electric substations, and pumping stations for water, power and gas (excluding towers, poles, power lines, buried pipelines, transmission lines, distribution lines and service lines, and excluding hydroelectric power generating plants and related appurtenances); and air transportation lifelines, such as general aviation and commercial airports, helicopter pads and appurtenances serving emergency functions, and associated

infrastructure such as aviation control towers, air traffic control centers, and emergency equipment aircraft hangars.

*Flood hazard area* shall mean the Poudre River floodplain, a FEMA basin floodplain, a City basin floodplain, an area removed from a floodplain by a LOMR-Fill, or an erosion buffer zone.

*Government services facilities* shall mean facilities that are not essential services facilities but are vital for the restoration of normal governmental operations. *Government services facilities* shall include, but not be limited to: central governmental operations facilities, such as facilities for public records storage, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers (excluding facilities that are redundant of like facilities that are not within a regulatory floodplain); and essential structures such as dormitories, offices, classrooms and laboratories for public higher educational facilities such as colleges, universities, community colleges and vocational schools.

...

*Hazardous materials facilities* shall mean facilities that produce, use or store highly volatile, hazardous, flammable, explosive, toxic and/or water-reactive materials, liquids, gases or solids, as defined under Chapter 9 of the Code, and cemeteries. *Hazardous materials facilities* shall include, but not be limited to: chemical and pharmaceutical plants; laboratories; refineries; hazardous waste storage and disposal sites; gasoline storage or sales facilities; automobile oil and lubrication, repair or paint facilities; warehouses; manufacturing facilities; and propane storage or sales facilities. *Hazardous materials facilities* shall not include retail structures and facilities that only stock and store products in factory-sealed containers.

...

*Physical map revision (PMR)* shall mean a formal action by FEMA physically revising and republishing one or more map panels of the effective National Flood Insurance Rate Map to show changes in flood risk zones, delineations and flood elevations of floodplains and floodways, and/or planimetric features.

*Preliminary map revision* shall mean a letter from the Utilities Executive Director officially commenting on, but not revising, the effective floodplain map, for a proposed project in a City basin floodplain that would, upon completion, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in a revision to the effective floodplain map to show changes in delineations and flood elevations of floodplains and floodways.

...

Section 2. That Section 10-19 of the Code of the City of Fort Collins is hereby amended to read as follows:

...

The floodplain studies or reports incorporated herein by this reference are as follows:

- (1) Poudre River floodplain (see Division 4).
- (2) FEMA basin floodplains (see Division 5):
  - a. Dry Creek floodplain.
  - b. Spring Creek floodplain.
  - c. Boxelder Creek floodplain.
  - d. Cooper Slough floodplain.
- (3) City basin floodplains (see Division 65):
  - a. Old Town floodplain.
  - b. West Vine floodplain.
  - c. Canal Importation floodplain.
  - d. Fossil Creek floodplain.
  - e. Mail Creek floodplain.
  - f. McClellands Creek floodplain.
  - g. Foothills floodplain.
- (4) Erosion buffer zones (see Division 7):
  - a. Fossil Creek erosion buffer zone.
  - b. Boxelder Creek erosion buffer zone.
  - c. McClellands Creek erosion buffer zone.
  - d. Mail Creek erosion buffer zone.

Section 3. That Section 10-20 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-20. Application to certain lands.**

The provisions of this Article shall apply to all areas within the jurisdiction of the City. If a lot or parcel lies partly within a floodplain, floodway, flood fringe, erosion buffer zone or other designated area, or has been removed from a flood fringe by a LOMR-Fill, the part(s) of such lot or parcel lying within such area or areas shall meet all the standards and requirements applicable to such area as prescribed by this Article. If lands located outside the City limits are included within a flood hazard area, the requirements of this Article shall apply to such lands upon

annexation and thereafter, and any development activities upon such lands after the date of annexation shall comply with this Article.

Section 4. That Section 10-26 of the Code of the City of Fort Collins is hereby amended to read as follows:

...

(9) Making interpretations, where needed, as to the exact location of the boundaries of flood hazard areas, for example, where there appears to be a conflict between the map boundary and actual field conditions. The person contesting the location of such boundary shall be given a reasonable opportunity to appeal the interpretation as provided by the variance procedure in this Article; ~~and~~

(10) Receiving applications for and determining whether to issue erosion buffer zone waivers, pursuant to Division 7 of this Article; ~~and~~

(11) Collecting and administering escrow accounts for floodplain use permits.

Section 5. That Section 10-27 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-27. Floodplain use permit.**

(a) A floodplain use permit shall be obtained from the Utilities Executive Director before any construction or development begins within any ~~floodway, flood fringe or erosion buffer zone~~ flood hazard area established pursuant to this Article. A floodplain use permit shall also be required for any construction or development of or affecting a critical facility in the Poudre River five-hundred-year floodplain or a zone X shaded area, if that critical facility is regulated pursuant to §§ 10-46 or 10-81. Application for a floodplain use permit shall be made on forms furnished by the Utilities Executive Director and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the areas in question; structures already present and proposed, fill, storage of materials and drainage facilities; and the location of the foregoing....

Section 6. That Section 10-29 of the Code of the City of Fort Collins is hereby amended to read as follows:

...

(b) ~~Variances may be issued for the reconstruction, rehabilitation or restoration of historic structures without regard to the procedures set forth in the remainder of this Section.~~ Variances may be issued, -without regard to the requirements set forth in the remainder of this Section, for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(c) If the variance sought under this Section would exempt the applicant's property from the application of any provision under this Article that is more restrictive than ~~a~~ **any** comparable provision of the Federal Floodplain Regulations established in 44 C.F.R. Parts 59-78 **and the Colorado Floodplain Regulations**, such variance shall not be subject to the required finding of Paragraph ~~(f)~~ **(g)**(2) of this Section.

~~(d) If the variance sought is for property located in a City basin floodplain, such variance shall not be subject to the required finding of Paragraph (g)(2) of this Section.~~

~~(e)~~ Variances shall not be issued within any designated floodway if any increase in base flood elevations would result.

~~(e)~~ Variances shall only be issued upon the determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

~~(f)~~ Variances shall only be issued upon:

(1) The showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(3) A determination that the granting of the variance would not result in any increased flood elevations contrary to the applicable requirements of this Article or any additional threat to public safety or to public or private property, any extraordinary public expense, any nuisance or trespass, any fraud on or victimization of the public as identified in this Article, or conflict with local laws or ordinances.

~~(g)~~ Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

Section 7. That Section 10-37 of the Code of the City of Fort Collins is hereby amended to read as follows:

...

(2) FEMA basin **and City basin** floodplains:

a. For new construction and redevelopments, eighteen (18) inches above the base flood elevation;

b. For additions and substantial improvements, ~~six~~ **twelve** ~~(12)~~ **(126)** inches above the base flood elevation; and

c. For accessory structures, ~~six~~ **twelve** ~~(6)~~ **(12)** inches above the base flood elevation;

~~(3) City basin floodplain:~~

- ~~a. For new construction and redevelopment, eighteen (18) inches above the base flood elevation;~~
- ~~b. For additions and substantial improvements, six (6) inches above the base flood elevation; and~~
- ~~c. For accessory structures, six (6) inches above the base flood elevation.~~

...

Section 8. That Section 10-41 of the Code of the City of Fort Collins is hereby amended to read in its entirety as follows:

**Sec. 10-41. Specific standards for mobile buildings and manufactured homes.**

Any mobile building or manufactured home, where permitted, that is placed, relocated, redeveloped or substantially improved after the effective date of this Section, and any addition to a mobile building or manufactured home, shall meet the following requirements:

(1) The mobile building or manufactured home must meet the requirements of § 10-37, including, but not limited to, the requirement to be elevated so that the lowest floor is at or above the regulatory flood protection elevation. ~~For a mobile building or manufactured home elevated on pilings:~~

- ~~a. The lot on which said structure is located must be large enough to permit steps;~~
- ~~b. The foundation pilings must be placed in stable soil no more than ten (10) feet apart; and~~
- ~~c. Reinforcement must be provided for any pilings more than six (6) feet above the ground level.~~

(2) The mobile building or manufactured home must be securely anchored on a permanent foundation to resist flotation, collapse or lateral movement and shall be capable of resisting the hydrostatic and hydrodynamic flood forces calculated to occur in a one-hundred-year flood. ~~Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors, and must comply with the following requirements:~~

- ~~a. Over the top ties must be provided at each of the four (4) corners of the mobile building, with two (2) additional ties per side at intermediate locations, and with one (1) additional tie per side if the building length is in excess of fifty (50) feet and one (1) additional tie per side for each additional fifty (50) feet of length.~~
- ~~b. Frame ties must be provided at each corner of the manufactured home or mobile building, with five (5) additional ties per side at intermediate points, except that only four (4) additional frame ties per side shall be required for manufactured homes and mobile buildings less than fifty (50) feet long.~~

~~e. All components of the anchoring system must be capable of carrying a force of four thousand eight hundred (4,800) pounds.~~

(3) The mobile building or manufactured home must meet the requirements and guidelines applicable to an individual manufactured home or mobile building set forth in the FEMA publication entitled, **“Protecting Manufactured Homes from Floods and Other Hazards,” FEMA P-85, November 2009**; ~~“Manufactured Home Installation in Flood Hazard Areas,” FEMA85/September 1985.~~

(4) The mobile building or manufactured home must be placed in such a location and manner as to provide adequate access to allow the mobile building or manufactured home to be hauled from the site.

(5) The mobile building or manufactured home must be placed in a manner and location such that the requirements of § 26-544 are met.

Section 9. That Section 10-80 of the Code of the City of Fort Collins is hereby amended to read in its entirety as follows:

**Sec. 10-80. Removal of property from Poudre River flood fringe.**

(a) **LOMR/PMR.** Property located in the flood fringe of the Poudre River shall be **considered removed from the flood fringe, if one (1) of the following conditions is satisfied, but shall remain subject to the provisions of this Section:**

~~(1) LOMR/PMR. A~~ **a** FEMA Letter of Map Revision (LOMR) or Physical Map Revision (PMR) removing the property from the flood fringe based on revised floodplain modeling and technical analysis has been issued **by FEMA** and remains in effect. **Any property removed from the flood fringe pursuant to this Subsection (a) that remains in the five-hundred-year floodplain shall be subject to all requirements and prohibitions of this Article pertaining to the five-hundred-year floodplain.**; ~~or~~

~~(b)(2)~~ **LOMR-F.** **Property located in the flood fringe of the Poudre River shall be considered removed from the flood fringe if a FEMA Letter of Map Revision based on Fill (LOMR-F) removing the property from the flood fringe based on fill has been issued by FEMA and remains in effect.**

**(1) LOMR-F Review and Approval.** **The Utilities Executive Director shall review any application for a A FEMA Letter of Map Revision based on Fill (LOMR-F) LOMR-F removing the property from the flood fringe, and the following conditions shall apply to any LOMR-F certified by the City as reasonably safe from flooding: has been issued and remains in effect. Upon issuance by FEMA of a LOMR-F removing the property from the flood fringe, the following requirements and restrictions shall remain applicable unless and until the LOMR-F is invalidated or superseded by FEMA action:**

**a. A floodplain use permit shall be obtained for any development in a LOMR-F area.**

**ab.** Construction of any new residential or mixed-use structure is prohibited.



bc. Any addition to a residential or mixed-use structure is prohibited, except that an addition to a mixed-use structure that results in expansion of only nonresidential floors of said structure is allowed.

ed. Any new structure, accessory structure, attached garage or addition, substantial improvement or redevelopment must meet all requirements applicable to construction in the Poudre River flood fringe, including, but not limited to, the requirements of § 10-37, except that:

1. For nonresidential structures and mixed-use structures with all residential use on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).

ec. Critical facilities and expansions of critical facilities are prohibited.

ef. Manufactured homes and mobile buildings other than a nonconforming manufactured home or mobile building are prohibited, except that:

1. A manufactured home or mobile building may be replaced, provided that the replacement manufactured home or mobile building complies with all requirements applicable to manufactured homes or mobile buildings in the Poudre River flood fringe, including, but not limited to, the requirements of § 10-41.

2. Manufactured home parks and mobile building developments, other than nonconforming manufactured mobile home parks and mobile building developments are prohibited.

3. Expansion of a manufactured home park or a mobile building development is prohibited.

(b2) Unconditional or Annexed LOMR-F Approvals. For any new structure, accessory structure, attached garage or addition, substantial improvement or redevelopment based on a LOMR-F that did not include the conditions described in Subsection (b)(1) or that was approved prior to annexation to the city, the development must meet the requirements of § 10-37, in addition to meeting all conditions of the LOMR-F approval, except that:

1. The applicable flood protection elevation required shall be twelve (12) inches above the base flood elevation, regardless of the elevation level stated in § 10-37; and

2. For nonresidential structures and mixed-use structures with all residential use on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the elevation requirement in this Subsection (b)(2).

(3) **Five-Hundred Year Floodplain Requirements Applicable.** ~~If the Any~~ property ~~considered~~ removed from the flood fringe pursuant to ~~this~~ Subsection (ba) ~~of this Section~~ that remains in the five-hundred-year floodplain ~~after such removal, any development on the property~~ shall ~~comply with~~ **be subject to** all requirements and prohibitions of this Article pertaining to the five-hundred-year floodplain.

Section 10. That Section 10-81(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-81. Specific standards for Poudre River five-hundred-year floodplain and zone X shaded areas.**

- (a) Critical facilities. In any portion of the Poudre River five-hundred-year floodplain or a zone X shaded area, as designated pursuant to § 10-19, **essential services facilities, and at-risk population facilities** ~~critical facilities~~ are prohibited, ~~except that, for the purpose of this Section only, critical facilities shall not include structures or facilities that constitute critical facilities solely because they produce, use or store hazardous, flammable, explosive, toxic and/or water reactive materials, liquids, gases and solids as such are defined in § 9-1 and § 9-2 of the Uniform Fire Code, as adopted.~~

Section 11. That the title of Division 5 of the Code of the City of Fort Collins is hereby amended to read as follows:

*Division 5  
FEMA Basin **and City Basin** Floodplains*

Section 12. That Section 10-102 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-102. Specific standards for residential development in floodways ~~of FEMA basin floodplains.~~**

In addition to complying with all other applicable provisions of this Article, all residential development in the floodway of a FEMA basin floodplain **or a City basin floodplain** shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

...

Section 13. That Section 10-103 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-103. Specific standards for nonresidential development in floodways ~~of FEMA basin floodplains.~~**

In addition to complying with all other applicable provisions of this Article, all nonresidential development in the floodway of a FEMA basin floodplain **or a City basin floodplain** shall

comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

...

Section 14. That Section 10-104 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-104. Specific standards for mixed-use development in floodways ~~of FEMA basin floodplains.~~**

In addition to complying with all other applicable provisions of this Article, all mixed-use development in the floodway of a FEMA basin floodplain **or a City basin floodplain** shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

...

Section 15. That Section 10-105 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-105. Specific standards for nonstructural development in floodways ~~of FEMA basin floodplains.~~**

In addition to complying with all other applicable provisions of this Article, all nonstructural development in the floodway of a FEMA basin floodplain **or a City basin floodplain** shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

...

Section 16. That the title of Section 10-106 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-106. Floodway encroachments ~~in floodways of FEMA basin floodplains.~~**

...

Section 17. That Section 10-107 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-107. Change of use in floodways ~~of FEMA basin floodplains.~~**

No person shall change the use of any structure or property, or any portion thereof, located in the floodway of a FEMA basin floodplain **or a City basin floodplain** so as to result in a use or expansion of a use that is inconsistent with the requirements of this Article.

Section 18. That Section 10-108 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-108. Specific standards for residential development in flood fringe ~~of FEMA basin floodplains.~~**

In addition to complying with all other applicable provisions of this Article, all residential development in the flood fringe of a FEMA basin floodplain **or a City basin floodplain** shall comply with the following provisions unless removed from the flood fringe by approval of a LOMR in accordance with § 10-113. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

Section 19. That Section 10-109 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-109. Specific standards for nonresidential development in flood fringe ~~of FEMA basin floodplains.~~**

In addition to complying with all other applicable provisions of this Article, all nonresidential development in the flood fringe of a FEMA basin floodplain **or a City basin floodplain** shall comply with the following provisions unless removed from the flood fringe by approval of a LOMR in accordance with § 10-113. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

...

Section 20. That Section 10-110 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-110. Specific standards for mixed-use development in flood fringe ~~of FEMA basin floodplains.~~**

In addition to complying with all other applicable provisions of this Article, all mixed-use development in the flood fringe of a FEMA basin floodplain **or a City basin floodplain** shall comply with the following provisions unless removed from the flood fringe by approval of a LOMR in accordance with § 10-113. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

...

Section 21. That Section 10-111 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-111. Specific standards for nonstructural development in flood fringe ~~of FEMA basin floodplains.~~**

In addition to complying with all other applicable provisions of this Article, all nonstructural development in the flood fringe of a FEMA basin floodplain **or a City basin floodplain** shall

comply with the following provisions unless removed from the flood fringe by approval of a LOMR or Physical Map Revision in accordance with § 10-113. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.

...

Section 22. That Section 10-112 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-112. Change of use in flood fringe of FEMA basin floodplains.**

No person shall change the use of any structure or property, or any portion thereof, located in the flood fringe of a FEMA basin floodplain or a City basin floodplain so as to result in a use or expansion of a use that is inconsistent with the requirements of this Article.

Section 23. That Section 10-113 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-113. Removal of property from flood fringe of FEMA basin floodplains.**

(a) LOMR/PMR. Property located within that portion the flood fringe of a FEMA basin floodplain that has been designated by FEMA pursuant to Subsection 10-19(a) (FEMA designations) may shall be considered removed from the flood fringe if one (1) of the following conditions is satisfied:

(1) LOMR/PMR. a FEMA has issued a Letter of Map Revision (LOMR) or Physical Map Revision (PMR) removing the property from the flood fringe based on revised floodplain modeling and technical analysis has been issued by FEMA and remains in effect.;

(b)(2) LOMR-Fill. Property located in the flood fringe of a FEMA basin floodplain shall be considered removed from the flood fringe if a FEMA has issued a Letter of Map Revision based on Fill (LOMR-F) removing the property from the flood fringe. If FEMA has issued a LOMR-F removing the property from the flood fringe based on fill has been issued by FEMA and remains in effect, the following requirements and restrictions shall remain applicable:

(1) LOMR-F Review and Approval. The Utilities Executive Director shall review any application for a LOMR-F removing property from the flood fringe based on fill, and the following conditions shall apply to any LOMR-F certified by the City as reasonably safe from flooding:

a. A floodplain use permit shall be obtained for any development in a LOMR-F area.

ba. Any new structure, accessory structure, attached garage, or addition, substantial improvement or redevelopment must meet all applicable requirements, including, but not limited to, the requirements of § 10-37, except that:

1. For nonresidential structures and mixed-use structures with all residential use on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).

cb. Critical facilities and expansions of critical facilities are prohibited.

de. Manufactured homes and mobile buildings other than a nonconforming manufactured home or mobile building are prohibited, except that:

1. A manufactured home or mobile building may be replaced, provided that the replacement manufactured home or mobile building complies with all applicable requirements, including, but not limited to, the requirements of § 10-41.

2. Manufactured home parks and mobile building developments, other than nonconforming manufactured home parks and mobile building developments, are prohibited.

3. Expansion of a manufactured home park or a mobile building development is prohibited.

(b2) Unconditional or Annexed LOMR-F Approvals. For any new structure, accessory structure, attached garage or addition, substantial improvement or redevelopment based on a LOMR-F that did not include the conditions described in Subsection (b)(1) or that was approved prior to annexation to the city, the development must meet the requirements of § 10-37, in addition to meeting all conditions of the LOMR-F approval, except that:

1. The applicable flood protection elevation required shall be twelve (12) inches above the base flood elevation, regardless of the elevation level stated in § 10-37; and

2. For nonresidential structures and mixed-use structures with all residential use on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the elevation requirement in this Subsection (b)(2).

~~(b) Property located in the flood fringe of a FEMA basin floodplain as designated by the Utilities Executive Director pursuant to Subsection 10-19(b) that is outside of the FEMA basin floodplain that has been designated by FEMA pursuant to Subsection 10-19(a) may be removed from the flood fringe upon approval by the Utilities Executive Director of a final map revision based upon floodplain modeling and technical analysis consistent with floodplain modeling guidelines and standards established or approved by the Utilities Executive Director demonstrating that the property is no longer located in the flood fringe. Such modeling and analysis shall be required as the basis for a map revision regardless of fill or other physical changes to a property.~~

Section 24. That Section 10-114 of the Code of the City of Fort Collins is hereby deleted and replaced with a new Section 10-114 to read as follows:

**~~Sec. 10-114. Waiver of requirements for City designations within FEMA basin floodplains.~~**

~~The Utilities Executive Director may waive any or all of the requirements of this Article that apply to the issuance of a floodplain permit for a proposed development solely because of the Utilities Executive Director's applicable flood hazard designation pursuant to Subsection 10-19(b), and not because of FEMA's applicable flood hazard designation pursuant to Subsection 10-19(a). The Utilities Executive Director may waive such requirements and issue a floodplain permit in such event if he or she is satisfied that there is a sufficient degree of certainty that the property will be removed from the floodway or flood fringe as a result of a City funded capital project to allow a floodplain permit to issue for the proposed development hereunder, considering:~~

- ~~(1) The nature of the proposed development and related flood risks; and~~
- ~~(2) The level of certainty that the capital project will proceed to completion, which shall at a minimum include the prior issuance of a notice to proceed for the capital project, and the expectation that the capital project is progressing and will continue to completion; and~~
- ~~(3) A technical analysis consistent with the City's technical standards for such analysis that has been completed by a registered professional engineer and that documents and proves to the satisfaction of the Utilities Executive Director that the property will be completely removed from the floodway or flood fringe, as applicable, after completion of the capital project.~~

~~New structures that are constructed pursuant to a waiver under this Section and upon completion of the relevant capital project are determined to not have been removed from the floodway or flood fringe as anticipated at the time of said waiver will be deemed to be nonconforming structures in the floodway or flood fringe, as applicable, and all future activities and development shall be subject to the requirements of this Article as the same would apply to any nonconforming structure.~~

**Sec. 10-114. Removal of property from flood fringe of City basin floodplains.**

The Utilities Executive Director may remove property from the flood fringe of a City basin floodplain upon approval of a final map revision based upon floodplain modeling and technical analysis consistent with floodplain modeling guidelines and standards established or approved by the Utilities Executive Director demonstrating that the property is no longer located in the flood fringe. Such modeling and analysis shall be required as the basis for a map revision regardless of fill or other physical changes to a property.

Section 25. That Division 6 of Article 2 of Chapter 10 of the Code of the City of Fort Collins regarding City Basin Floodplains is hereby deleted in its entirety as follows and reserved for future use:

*City Basin Floodplains*

**Sec. 10-131. Designation of City basin floodplains.**

~~In accordance with § 10-19, the floodplains designated by the Utilities Executive Director for the Old Town basin, the West Vine basin, the Canal Importation basin, the Fossil Creek basin, the Mail Creek basin, the McClellands Creek basin and the Foothills basin, as described therein, shall be considered City basin floodplains and shall be subject to the requirements of this Division and all other applicable requirements of this Article, including without limitation the requirements applicable to erosion buffer zones as set forth in Division 7.~~

**Sec. 10-132. Specific standards for residential development in floodways of City basin floodplains.**

~~In addition to complying with all other applicable provisions of this Article, all residential development in the floodway of a City basin floodplain shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.~~

~~(1) New construction. Construction of new residential structures is prohibited.~~

~~(2) Addition. Addition to a residential structure is prohibited, except for addition of a new attached garage, as set forth herein.~~

~~(3) Remodeling and repairs.~~

~~a. Remodeling or repair of a residential structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. No new basement may be constructed below the regulatory flood protection elevation in connection with any remodeling or repair of a residential structure.~~

~~c. No basement below the regulatory flood protection elevation may remain upon any substantial improvement of a residential structure.~~

~~(4) Redevelopment.~~

~~a. Redevelopment of a residential structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. No new basement may be constructed below the regulatory flood protection elevation in any redevelopment of a residential structure.~~



~~e. No basement below the regulatory flood protection elevation may remain upon any redevelopment of a residential structure.~~

~~(5) Manufactured homes.~~

~~a. Manufactured homes, other than nonconforming manufactured homes, are prohibited, except that:~~

~~1. A nonconforming manufactured home in a manufactured home park may be replaced, provided that the replacement manufactured home complies with all applicable requirements, including, but not limited to, the requirements of § 10-41.~~

~~2. Installation of a manufactured home on a nonconforming previously improved lot in a nonconforming manufactured home park is allowed, provided that the new manufactured home complies with all applicable requirements, including, but not limited to, the requirements of § 10-41.~~

~~b. Development of a manufactured home park is prohibited.~~

~~c. Expansion of a manufactured home park is prohibited.~~

~~(6) Attached garages.~~

~~a. Addition of an attached garage to a residential structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-45 and the requirements of § 10-37, are met by the attached garage.~~

~~b. For a garage attached to a residential structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~(7) Accessory structures.~~

~~a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-45 and the requirements of § 10-37, are met.~~

~~b. Remodeling and repair of an accessory structure is allowed, provided that, for any substantial improvement, all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~c. Redevelopment of an accessory structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~e. No new basement may be constructed below the regulatory flood protection elevation in any accessory structure.~~

~~f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, upon completion of any substantial improvement or redevelopment, all applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~(8) Floodway modification. Floodway modification is prohibited unless all applicable requirements, including, but not limited to, the requirements of § 10-45, are met.~~

~~(9) Critical facilities. Critical facilities are prohibited.~~

**Sec. 10-133. — Specific standards for nonresidential development in floodways of City basin floodplains.**

~~In addition to complying with all other applicable provisions of this Article, all nonresidential development in the floodway of a City basin floodplain shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.~~

~~(1) New construction.~~

~~a. Construction of new nonresidential structures is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-45 and the requirements of § 10-37, are met.~~

~~b. For a new nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~c. No new basement may be constructed below the regulatory flood protection elevation in a new nonresidential structure.~~

~~(2) Addition.~~

~~a. Addition to a nonresidential structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-45 and the requirements of § 10-37, are met.~~

~~b. For an addition to a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~c. No new basement may be constructed below the regulatory flood protection elevation in an addition to a nonresidential structure.~~

~~(3) Remodeling and repairs.~~

~~a. Remodeling or repair of a nonresidential structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. For remodeling or repair of a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~c. No new basement may be constructed below the regulatory flood protection elevation in connection with any remodeling or repair of a nonresidential structure.~~

~~d. A nonconforming basement below the regulatory flood protection elevation may remain upon the remodeling or repair of a nonresidential structure, provided that, upon completion \_\_\_\_\_ of~~

~~any substantial improvement, all applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~(4) Redevelopment.~~

~~a. Redevelopment of a nonresidential structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. For redevelopment of a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~c. No new basement may be constructed below the regulatory flood protection elevation in connection with any redevelopment of a nonresidential structure.~~

~~d. A nonconforming basement below the regulatory flood protection elevation may remain upon the redevelopment of a nonresidential structure, provided that all applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~(5) Mobile buildings.~~

~~a. Mobile buildings, other than nonconforming mobile buildings, are prohibited, except that:~~

~~1. A nonconforming mobile building in a mobile building development may be replaced, provided that the replacement mobile building complies with all applicable requirements, including, but not limited to, the requirements of § 10-41.~~

~~2. Installation of a mobile building on a nonconforming previously improved lot in a nonconforming mobile building development is allowed, provided that the new mobile building complies with all applicable requirements, including, but not limited to, the requirements of § 10-41.~~

~~b. Development of a mobile building development is prohibited.~~

~~c. Expansion of a mobile building development is prohibited.~~

~~(6) Attached garages.~~

~~a. Addition of an attached garage to a nonresidential structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-45 and the requirements of § 10-37, are met by the attached garage.~~

~~b. For a garage attached to a nonresidential structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~(7) Accessory structures.~~

~~a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-45 and the requirements of § 10-37, are met.~~

~~b. Remodeling and repair of an accessory structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~e. No new basement may be constructed below the regulatory flood protection elevation in any accessory structure.~~

~~f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, upon completion of any substantial improvement or redevelopment, all applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~(8) Floodway modification. Floodway modification is prohibited unless all applicable requirements, including, but not limited to, the requirements of § 10-45, are met.~~

~~(9) Critical facilities. Critical facilities are prohibited.~~

~~Sec. 10-134. Specific standards for mixed use development in floodways of City basin floodplains.~~

~~In addition to complying with all other applicable provisions of this Article, all mixed-use development in the floodway of a City basin floodplain shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.~~

~~(1) New construction. Construction of a new mixed-use structure is prohibited.~~

~~(2) Addition.~~

~~a. Addition to a mixed-use structure for residential use is prohibited.~~

~~b. Addition to the nonresidential use portions of a mixed-use structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-45 and the requirements of § 10-37, are met by the addition.~~

~~c. For an addition to the nonresidential use portions of a mixed-use structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~d. No new basement may be constructed below the regulatory flood protection elevation in an addition to a mixed-use structure.~~

~~(3) Remodeling and repairs.~~

~~a. Remodeling or repair of a mixed-use structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. For remodeling or repair of a mixed-use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~c. No new basement may be constructed below the regulatory flood protection elevation in any remodeling or repair of a mixed-use structure.~~

~~d. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the remodeling or repair of a mixed-use structure, provided that, upon completion of any substantial improvement:~~

~~1. All residential use is on a floor completely above the regulatory flood protection elevation; and~~

~~2. All applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~(4) Redevelopment.~~

~~a. Redevelopment of a mixed-use structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. For redevelopment of a mixed-use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~c. No new basement may be constructed below the regulatory flood protection elevation in any redevelopment of a mixed-use structure.~~

~~d. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the redevelopment of a mixed-use structure, provided that:~~

~~1. All residential use is on a floor completely above the regulatory flood protection elevation; and~~

~~2. All applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~(5) Attached garages:~~

~~a. Addition of a new attached garage to a mixed-use structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-45 and the requirements of § 10-37, are met by the attached garage.~~

~~b. For a garage attached to a mixed-use structure compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~(6) Accessory structures:~~

~~a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-45 and the requirements of § 10-37, are met.~~

~~b. Remodeling and repair of an accessory structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~e. No new basement may be constructed below the regulatory flood protection elevation in any accessory structure.~~

~~f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, upon completion of any substantial improvement or redevelopment, all applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~(7) Floodway modification. Floodway modification is prohibited unless all applicable requirements, including, but not limited to, the requirements of § 10-45, are met.~~

~~(8) Critical facilities. Critical facilities are prohibited.~~

**Sec. 10-135. Specific standards for nonstructural development in floodways of City basin floodplains.**

~~In addition to complying with all other applicable provisions of this Article, all nonstructural development in the floodway of a City basin floodplain shall comply with the following provisions. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.~~

~~(1) Fencing. Construction of new fencing is prohibited, unless the fencing is designed to break away, and is cabled together so as to not float downstream. As an alternative to a break away design, a new fence may be designed to allow the passage of water by having a flap or opening in the areas at or below the base flood elevation sufficient to allow floodwater to pass freely.~~

~~(2) Detention ponds. Construction of new detention ponds is prohibited, unless all applicable requirements, including, but not limited to, the requirements of § 10-45, are met.~~

~~(3) Hard surface paths, trails and walkways. Construction of hard surface paths, trails and walkways is prohibited, unless all applicable requirements, including, but not limited to, the requirements of § 10-45, are met.~~

~~(4) Fill. Placement of fill is prohibited, unless all applicable requirements, including, but not limited to, the requirements of § 10-45, are met.~~

~~(5) Outdoor storage. Outdoor storage associated with a nonresidential use, whether temporary or permanent, is prohibited, unless all applicable requirements, including, but not limited to, the requirements of § 10-45, are met.~~

~~(6) Driveways and parking areas. Construction of new driveways and parking areas is prohibited, unless all applicable requirements, including, but not limited to, the requirements of § 10-45, are met. Outdoor parking that meets the definition of outdoor storage in § 10-16 shall be subject to regulation as outdoor storage.~~

~~(7) Vegetation. Placement of new vegetation in the floodway in a location or of a quantity or type that is determined by the Utilities Executive Director to likely result upon maturity in an~~

~~increase in base flood elevations is prohibited, unless all applicable requirements, including, but not limited to, the requirements of § 10-45, are met.~~

~~**Sec. 10-136. Floodway encroachments in floodways of City basin floodplains.**~~

~~Any new development, obstruction or activity that will result in an encroachment in or modification to the floodway is prohibited, except to the extent all applicable requirements, including, but not limited to, the requirements of § 10-45, are met.~~

~~**Sec. 10-137. Change of use in floodways of City basin floodplains.**~~

~~No person shall change the use of any structure or property, or any portion thereof, located in the floodway of a City basin floodplain so as to result in a use or expansion of a use that is inconsistent with the requirements of this Article.~~

~~**Sec. 10-138. Specific standards for residential development in flood fringe of City basin floodplains.**~~

~~In addition to complying with all other applicable provisions of this Article, all residential development in the flood fringe of a City basin floodplain shall comply with the following provisions unless removed from the flood fringe in accordance with § 10-143. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.~~

~~(1) New construction.~~

~~a. Construction of a new residential structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. No new basement may be constructed below the regulatory flood protection elevation in any new residential structure.~~

~~(2) Additions.~~

~~a. An addition to a residential structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. No new basement may be constructed below the regulatory flood protection elevation in any addition to a residential structure.~~

~~(3) Remodeling and repairs.~~

~~a. Remodeling or repair of a residential structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. For remodeling or repair of a residential structure, any improvements on a floor that is entirely above the base flood elevation, including any vertical addition, may be excluded~~



from the calculation of the cost of improvements for the purpose of determining whether the improvements constitute a substantial improvement.

~~e. For remodeling or repair of a residential structure, if a vertical addition is being added to a structure and a substantial improvement is not being made, then the foundation of the existing structure, as existing or as modified by proposed improvements, assuming the completion of the vertical addition, must be certified by a registered professional engineer to be sufficient to withstand the hydrostatic and hydrodynamic loads against the structure expected to occur in a one hundred year flood.~~

~~d. No new basement may be constructed below the regulatory flood protection elevation in connection with any remodeling or repair of a residential structure.~~

~~e. No basement below the regulatory flood protection elevation may remain upon completion of any substantial improvement of a residential structure.~~

~~(4) Redevelopment.~~

~~a. Redevelopment of a residential structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37 are met.~~

~~b. No new basement may be constructed below the regulatory flood protection elevation upon any redevelopment of a residential structure.~~

~~c. No basement below the regulatory flood protection elevation may remain upon any redevelopment of a residential structure.~~

~~(5) Manufactured homes.~~

~~a. Manufactured homes, other than nonconforming manufactured homes, are prohibited, except that:~~

~~1. A nonconforming manufactured home may be replaced, provided that the replacement manufactured home complies with all applicable requirements, including, but not limited to, the requirements of § 10-41.~~

~~2. Installation of a manufactured home on a nonconforming previously improved lot in a nonconforming manufactured home park is allowed, provided that the new manufactured~~

~~home complies with all applicable requirements, including, but not limited to, the requirements of § 10-41.~~

~~b. Development of a manufactured home park is prohibited.~~

~~c. Expansion of a manufactured home park is prohibited.~~

~~(6) Attached garages.~~

~~a. Addition of an attached garage to a residential structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met by the attached garage.~~

~~b. For a garage attached to a residential structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~(7) Accessory structures.~~

~~a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. Remodeling and repair of an accessory structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~e. A new basement may be constructed below the regulatory flood protection elevation in an accessory structure, provided that all applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, upon completion of any substantial improvement or redevelopment, all applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~(8) Critical facilities. Critical facilities are prohibited.~~

**Sec. 10-139.— Specific standards for nonresidential development in flood fringe of City basin floodplains.**

~~In addition to complying with all other applicable provisions of this Article, all nonresidential development in the flood fringe of a City basin floodplain shall comply with the following provisions unless removed from the flood fringe in accordance with § 10-143. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.~~

~~(1) New construction.~~

~~a. Construction of a new nonresidential structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. For a new nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~e. A new basement may be constructed below the regulatory flood protection elevation in a new nonresidential structure, provided that all applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~(2) Additions.~~

~~a. Addition to a nonresidential structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. For an addition to a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~c. A new basement may be constructed below the regulatory flood protection elevation in an addition to a nonresidential structure, provided that all applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~(3) Remodeling and repair.~~

~~a. Remodeling or repair of a nonresidential structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. For remodeling or repair of a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~c. For remodeling or repair of a nonresidential structure, any improvements on a floor that is entirely above the base flood elevation, including any vertical addition, may be excluded from the calculation of the cost of improvements for the purpose of determining whether the improvements constitute a substantial improvement.~~

~~d. For remodeling or repair of a nonresidential structure, if a vertical addition is being added to a structure and a substantial improvement is not being made, then the foundation of the existing structure, as existing or as modified by proposed improvements, assuming the completion of the vertical addition, must be certified by a registered professional engineer to be sufficient to withstand the hydrostatic and hydrodynamic loads against the structure expected to occur in a one-hundred-year flood event.~~

~~e. A new basement may be constructed below the regulatory flood protection elevation in connection with the remodeling or repair of a nonresidential structure, provided that all~~

~~applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~f. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the remodeling or repair of a nonresidential structure, provided that, upon completion of any substantial improvement, all applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~(4) Redevelopment.~~

~~a. Redevelopment of a nonresidential structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. For redevelopment of a nonresidential structure, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~c. A new basement may be constructed below the regulatory flood protection elevation in connection with the redevelopment of a nonresidential structure, provided that all applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~d. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the redevelopment of a nonresidential structure, provided that all applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~(5) Mobile buildings.~~

~~a. Mobile buildings, other than nonconforming mobile buildings, are prohibited, except that:~~

~~1. A nonconforming mobile building may be replaced, provided that the replacement mobile building complies with all applicable requirements, including, but not limited to, the requirements of § 10-41.~~

~~2. Installation of a mobile building on a nonconforming previously improved lot in a nonconforming mobile building development is allowed, provided that the new mobile building complies with all applicable requirements, including, but not limited to, the requirements of § 10-41.~~

~~b. Development of a mobile building development is prohibited.~~

~~c. Expansion of a mobile building development is prohibited.~~

~~(6) Attached garages.~~

~~a. Addition of an attached garage to a nonresidential structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met by the attached garage.~~

~~b. For a garage attached to a nonresidential structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable elevation requirement of Subsection 10-37(b).~~

~~(7) — Accessory structures.~~

~~a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. Remodeling and repair of an accessory structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~e. A new basement may be constructed below the regulatory flood protection elevation in an accessory structure, provided that all applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, upon completion of any substantial improvement or redevelopment, all applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~(8) Critical facilities. Critical facilities are prohibited.~~

**~~Sec. 10-140. — Specific standards for mixed-use development in flood fringe of City basin floodplain.~~**

~~In addition to complying with all other applicable provisions of this Article, all mixed-use development in the flood fringe of a City basin floodplain shall comply with the following provisions unless removed from the flood fringe in accordance with § 10-143. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.~~

~~(1) New construction.~~

~~a. Construction of a new mixed use structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. For a new mixed use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable elevation requirement of Subsection 10-37(b).~~

~~c. A new basement may be constructed below the regulatory flood protection elevation in a new mixed use structure, provided that:~~

~~1. All residential use is on a floor completely above the regulatory flood protection elevation; and~~

~~2. All applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~(2) Additions.~~

~~a. Addition to a mixed use structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. For an addition to a mixed use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable elevation requirement of Subsection 10-37(b).~~

~~c. A new basement may be constructed below the regulatory flood protection elevation in an addition to a mixed use structure, provided that:~~

~~1. All residential use is on a floor completely above the regulatory flood protection elevation; and~~

~~2. All applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~(3) Remodeling and repair.~~

~~a. Remodeling or repair of a mixed use structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. For remodeling or repair of a mixed use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~c. For remodeling or repair of a mixed use structure, any improvements on a floor that is entirely above the base flood elevation, including any vertical addition, may be excluded~~

from the calculation of the cost of improvements for the purpose of determining whether the improvements constitute a substantial improvement.

~~d. For remodeling or repair of a mixed-use structure, if a vertical addition is being added to a structure and a substantial improvement is not being made, then the foundation of the existing structure, as existing or as modified by proposed improvements, assuming the completion of the vertical addition, must be certified by a registered professional engineer to be sufficient to withstand the hydrostatic and hydrodynamic loads against the structure expected to occur in a one-hundred-year flood.~~

~~e. A new basement may be constructed below the regulatory flood protection elevation in connection with the remodeling or repair of a mixed-use structure, provided that:~~

~~1. All residential use is on a floor completely above the regulatory flood protection elevation; and~~

~~2. All applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~f. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the remodeling or repair of a mixed-use structure, provided that, upon completion of any substantial improvement:~~

~~1. All residential use is on a floor completely above the regulatory flood protection elevation; and~~

~~2. All applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~(4) Redevelopment.~~

~~a. Redevelopment of a mixed-use structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. For redevelopment of a mixed-use structure, in the event that all residential use is on a floor completely above the regulatory flood protection elevation, compliance with the requirements of § 10-38 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~c. A new basement may be constructed below the regulatory flood protection elevation in connection with the redevelopment of a mixed-use structure, provided that:~~

~~1. All residential use is on a floor completely above the regulatory flood protection elevation; and~~

~~2. All applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~d. A nonconforming basement below the regulatory flood protection elevation may remain in connection with the redevelopment of a mixed-use structure, provided that:~~

~~1. All residential use is on a floor completely above the regulatory flood protection elevation; and~~

~~2. All applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~(5) Attached garages.~~

~~a. Addition of an attached garage to a mixed-use structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met by the attached garage.~~

~~b. For a garage attached to a mixed-use structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~(6) Accessory structures.~~

~~a. Construction of a new accessory structure or addition to an accessory structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~b. Remodeling and repair of an accessory structure is allowed, provided that, upon completion of any substantial improvement, all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~c. Redevelopment of an accessory structure is allowed, provided that all applicable requirements, including, but not limited to, the requirements of § 10-37, are met.~~

~~d. For an accessory structure, compliance with the requirements of § 10-38 or the requirements of § 10-39 may be substituted for compliance with the applicable requirements of Subsection 10-37(b).~~

~~e. A new basement may be constructed below the regulatory flood protection elevation in an accessory structure, provided that all applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~f. A nonconforming basement below the regulatory flood protection elevation may remain in an accessory structure, provided that, upon completion of any substantial improvement or redevelopment, all applicable requirements, including, but not limited to, the requirements of § 10-38, are met.~~

~~(7) Critical facilities. Critical facilities are prohibited.~~



**~~Sec. 10-141.—Specific standards for nonstructural development in flood fringe of City basin floodplains.~~**

~~In addition to complying with all other applicable provisions of this Article, all nonstructural development in the flood fringe of a City basin floodplain shall comply with the following provisions unless removed from the flood fringe in accordance with § 10-143. If there is any conflict between any of the following provisions and any other provision of this Article, the more restrictive provision shall control.~~

- ~~(1) Fencing. Fencing is not restricted.~~
- ~~(2) Detention ponds. Detention ponds are not restricted.~~
- ~~(3) Hard surface paths, trails and walkways. Hard surface paths, trails and walkways are not restricted.~~
- ~~(4) Fill. Placement of fill is not restricted.~~
- ~~(5) Outdoor storage. Outdoor storage, whether temporary or permanent, is not restricted.~~
- ~~(6) Driveways and parking areas. Construction of driveways and parking areas is not restricted.~~
- ~~(7) Vegetation. Placement of vegetation is not restricted.~~

**~~Sec. 10-142.—Change of use in flood fringe of City basin floodplains.~~**

~~No person shall change the use of any structure or property, or any portion thereof, located in the flood fringe of a City basin floodplain so as to result in a use or expansion of a use that is inconsistent with the requirements of this Article.~~

~~(Ord. No. 37, 2005, 3-15-05)~~

**~~Sec. 10-143.—Removal of property from flood fringe of City basin floodplains.~~**

~~Property located in the flood fringe may be removed from the flood fringe upon approval by the Utilities Executive Director of a final map revision based upon floodplain modeling and technical analysis consistent with floodplain modeling guidelines and standards established or approved by the Utilities Executive Director demonstrating that the property is no longer located in the flood fringe. Such modeling and analysis shall be required as the basis for a map revision regardless of fill or other physical changes to a property.~~

~~(Ord. No. 37, 2005, 3-15-05; Ord. No. 080, 2011, § 1, 9-6-11)~~

**~~Sec. 10-144.—Waiver of requirements for City basin floodplains.~~**

~~The Utilities Executive Director may waive any or all of the requirements of this Article otherwise applicable to the issuance of a floodplain permit for a proposed development in a City basin floodplain because of the Utilities Executive Director's applicable flood hazard designation~~

~~pursuant to Subsection 10-19(b). The Utilities Executive Director may waive such requirements and issue a floodplain permit in such event, if he or she is satisfied that there is a sufficient degree of certainty that the property will be removed from the floodway or flood fringe as a result of a City funded capital project to allow a floodplain permit to issue for the proposed development hereunder considering:~~

~~(1) The nature of the proposed development and related flood risks; and~~

~~(2) The level of certainty that the capital project will proceed to completion, which shall at a minimum include the prior issuance of a notice to proceed for the capital project, and the expectation that the capital project is progressing and will continue to completion; and~~

~~(3) A technical analysis consistent with the City's technical standards for such analysis that has been completed by a registered professional engineer and that documents and proves to the satisfaction of the Utilities Executive Director that the property will be completely removed from the floodway or flood fringe, as applicable, after completion of the capital project.~~

~~New structures that are constructed pursuant to a waiver under this Section and upon completion of the relevant capital project are determined to not have been removed from the floodway or flood fringe as anticipated at the time of said waiver will be deemed to be nonconforming structures in the floodway or flood fringe, as applicable, and all future activities and development shall be subject to the requirements of this Article as the same would apply to any nonconforming structure.~~

Section 26. In the event that Ordinance No. 162, 2013, is adopted by the City Council on second reading at the same meeting that this Ordinance is adopted on second reading, in a form containing revisions to Section 10-80 of the Code of the City of Fort Collins, then such Section as revised in Ordinance No. 162 shall take precedence over Section 9 of this Ordinance, and in such event Section 9 of this Ordinance shall be null and void.

Section 27. In the event that Ordinance No. 162, 2013, is adopted by the City Council on second reading at the same meeting that this Ordinance is adopted on second reading, in a form containing revisions to Section 10-113 of the Code of the City of Fort Collins, then such Section as revised in Ordinance No. 162 shall take precedence over Section 23 of this Ordinance, and in such event Section 23 of this Ordinance shall be null and void.

Introduced, considered favorably on first reading, and ordered published this 5th day of November, A.D. 2013, and to be presented for final passage on the 19th day of November, A.D. 2013.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading on the 19th day of November, A.D. 2013.

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Mayor

ATTEST:

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City Clerk